

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Adam E. Rowell,	)	Civil Action No.: 3:11-2523-MGL
	)	
Plaintiff,	)	
	)	
v.	)	<b><u>OPINION AND ORDER</u></b>
	)	
Michael J. Astrue,	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	

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Through this action, Adam E. Rowell (“Plaintiff”) seeks judicial review of the final decision of the Commissioner of Social Security (“Commissioner”) determining that Plaintiff is no longer disabled.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. On November 2, 2012, the Magistrate Judge issued a Report and Recommendation in which he determined that the Commissioner's decision was not supported by substantial evidence. Accordingly, the Magistrate Judge recommended that the case be remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) “to evaluate the opinion of Plaintiff’s treating physician (Dr. Downey), determine Plaintiff’s credibility, and determine Plaintiff’s RFC in light of all the evidence, and (if necessary) to determine at step five whether there are jobs that exist in significant numbers in the national economy that Plaintiff can perform.” (ECF No. 15 at 16.) Plaintiff filed no objections to the Report and Recommendation. On November 16, 2012, the Commissioner filed a “Notice of Not Filing Objections to the Report and Recommendation of Magistrate Judge.” (ECF No. 17.)

The Magistrate Judge makes only a recommendation to this court. The

recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to him with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir.2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The decision of the Commissioner to deny benefits is **reversed** and the action is **remanded** under sentence four of 42 U.S.C. § 405(g) for further administrative action consistent with this order and the Report and Recommendation.

**IT IS SO ORDERED.**

/s/ Mary G. Lewis  
United States District Judge

November 20, 2012  
Spartanburg, South Carolina